UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1992/SR.23
15 December 1992

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Seventh session

SUMMARY RECORD OF THE 23rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 11 December 1992, at 10 a.m.

Chairman: Mrs. BONOAN-DANDAN
later: Mr. ALSTON

CONTENTS

Report of the Committee to the Economic and Social Council (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.92-18881 (E)

The meeting was called to order at 10.40 a.m.

REPORT OF THE COMMITTEE TO THE ECONOMIC AND SOCIAL COUNCIL (agenda item 10) (continued) (E/C.12/1992/CRP.1/Add.5 and 7-10, E/C.12/1992/CRP.2/Add. 1-3)

E/C.12/1992/CRP.2/Add.1 (continued)

1. The CHAIRMAN invited the Committee to continue its consideration of paragraphs 3 and 4 of document E/C.12/1992/CRP.2/Add.1, the remainder of the text having been adopted at an earlier meeting.

Paragraphs 3-4

2. Mr. TEXIER said that he and Mr. Konate wished to submit a compromise proposal, which consisted of retaining the text of paragraph 4 unchanged and replacing the last two sentences of paragraph 3 with a single sentence reading: "Respect for civil and political rights is an indispensable condition for the full realization of all human rights; there is, however, no basis whatsoever to assume that the realization of economic, social and cultural rights will necessarily accompany, or result from, the realization of civil and political rights.".

3. Mr. SIMMA said that he was prepared to accept the minor changes introduced by the compromise proposal.

4. Paragraphs 3-4, as amended, were adopted.

5. Mrs. JIMENEZ BUTRAGUEÑO, drawing attention to the fact that in paragraph 9 of the Spanish text mention had been made of economic and social but not cultural rights, said that care should be taken in editing the final version of the report to ensure that all three rights were duly, mentioned throughout.

6. Mr. TEXIER drew attention to a typographical error to the French text of paragraph 9; the word indissolubles should be replaced by indissociables

7. Mr. WIMER ZAMBRANO said that much time had been wasted in discussion at the previous meeting because textual changes agreed on previously had not been incorporated in the document before the Committee. He hoped that care would be taken to avoid such situations in the future.

8. Mr. ALSTON said the problem had arisen because the changes to the original text had been entered on a word-processor version of the document; the text reaching the translation services had thus appeared unchanged, hence the amendments had not been incorporated into the language versions other than English. Care would be taken in future to ensure that any amendments were clearly indicated on documents sent for processing.

9. Document E/C.12/1992/CRP.2/Add.1, as amended, was adopted.

E/C.12/1992/CRP.1/Add.8

Paragraphs 1-6

10. Paragraphs 1-6 were adopted.

Paragraph 7

11. Mrs. JIMENEZ BUTRAGUEÑO said that, in view of the importance of the text concerned, the word nota in the Spanish version of the last sentence should be replaced by documento.

12. Paragraph 7, as amended, was adopted.

Paragraph 8

13. Paragraph 8 was adopted.

14. Document E/C.12/1992/CRP.1/Add.8, as amended, was adopted.

E/C.12/1992/CRP.2/Add.3

15. Mr. ALSTON, introducing the document, said it represented a compilation of two documents that had already been discussed by the Committee. The only addition to texts already seen by the Committee were a number of introductory and summary paragraphs; no additions of substance were involved.

16. Mr. SIMMA said that care should be taken in preparing the final report to ensure that the wording of the present document and part B of document E/C.12/1992/CRP.1/Add.8 were in alignment.

17. Document E/C.12/1992/CRP.2/Add.3 was adopted.

18. Mr. Alston took the Chair.

E/C.12/1992/CRP.2/Add.2

19. Document E/C.12/1992/CRP.2/Add.2 was adopted.

E/C.12/1992/CRP.1/Add.5

Paragraphs 1-4

20. Paragraphs 1-4 were adopted.

Paragraph 5

21. The CHAIRMAN recalled that the conclusions referred to in the last sentence were contained in document E/C.12/WG/1992/CRP.5/Rev.1, which he invited the Committee to consider.

22. Document E/C.12/WG/1992/CRP.5/Rev.1 was adopted.

23. The CHAIRMAN suggested that the Committee should revert to the matter of the report of Panama, which had been considered earlier in the current session, at which time it had been decided to examine the list of recommendations adopted and to offer to send one or more representatives to Panama for the purpose of pursuing the Committee's dialogue on specific matters identified in the report. The Committee had also indicated at the time that it would revert to the matter after adopting the new procedure for follow-up action. As that procedure had been adopted on the previous day, he suggested that the Committee should confirm its offer to the Government of Panama to send one or more representatives, in conformity with the new procedure, for the specific purpose of addressing issues in relation to Panama identified in the report of 1991.

24. Mr. SIMMA said that a sentence should be added to the effect that the delegation of Panama had not been in a position to answer the questions which the supplementary report (E/1989/5/Add.8) had promised. The document submitted by Panama had in a number of places stated that questions would be answered by the representative of Panama in the oral phase. The paper which the pre-sessional working group had adopted in July 1992 had taken that into account and had not repeated any questions, because it had been assumed that the answers would be forthcoming. As that had not been the case, the Committee should include a comment to that effect.

25. The CHAIRMAN proposed adding the following sentence to paragraph 5: "The Committee took note of the fact that the delegation of Panama was not in a position to provide any of the specific responses which the supplementary report of Panama had indicated would be provided to the Committee at its seventh session".

26. Mr. WIMER ZAMBRANO thought that the following wording would be simpler: "The Committee took note of that fact that the delegation of Panama was not in a position to answer the questions which the supplementary report of Panama had indicated would be answered".

27. The CHAIRMAN said that he could accept that wording.

28. Mr. TEXIER said that the conclusions did not indicate that the Committee had proposed to send a delegation of one or two members to Panama to carry out a mission on site. He asked whether that was stated elsewhere.

29. The CHAIRMAN said that the Committee would deal with that matter both through the inclusion in the report of the paragraph currently being discussed and through the adoption of a draft decision to the Council. He proposed the following text for an additional sentence: "The Committee subsequently decided, in accordance with the procedure for follow-up action, to offer to send to Panama one or more representatives for the purpose of pursuing its dialogue with the Government in relation to the specific matters identified by the Committee in paragraph 135 of the report on its sixth session". The Committee might also consider adding the following sentence: "The Committee noted that the supplementary information provided by the State party in document E/1989/5/Add.8 had failed to clarify these issues".

30. Mrs. JIMENEZ BUTRAGUEÑO said that she preferred the phrase "had failed to clarify these issues sufficiently".

31. Mr. MRATCHKOV agreed with the proposal on the whole, but thought that the following phrase should be added: "sous réserve que cette offre soit acceptée par le Gouvernement" ("subject to the acceptance of this offer by the Government").

32. The CHAIRMAN asked Mr. Mratchkov to leave that matter in abeyance, because he intended to revert to it in the draft decision, where it would be more adequately reflected.

33. Mr. KOUZNETSOV proposed replacing the phrase "one or more representatives" by "one or more members".

34. The CHAIRMAN agreed with Mr. Kouznetsov's suggestion.

35. Mr. WIMER ZAMBRANO said that it might be better to say: "One or more members or a delegation, including at least one member of the Committee".

36. The CHAIRMAN cautioned against embarking on a discussion of that aspect, because the Committee was dealing with a procedure that it had already adopted and which indicated that a mission would consist of one or two members of the Committee.

37. Paragraph 5, as amended, was adopted.

38. Document E/C.12/1992/CRP.1/Add.5, as amended, was adopted.

39. The CHAIRMAN said that the Committee would also have to adopt a draft decision for the Economic and Social Council, and suggested the following text: "The Economic and Social Council takes note of the decision of the Committee on Economic, Social and Cultural Rights [reference, paragraph number] to inform the Government of Panama of its offer, in accordance with the procedure for follow-up action adopted at the Committee's seventh session and in pursuance of article 23 of the International Covenant on Economic, Social and Cultural Rights, to send one or two of its members to pursue its dialogue with the Government in relation to the matters identified by the Committee in paragraph 135 of the report of its sixth session". The Committee would then add a sentence along the lines of the one sent the previous year, which had been approved by the Economic and Social Council: "The Council approves the Committee's action, subject to the acceptance of the Committee's offer by the State party concerned". That reflected the point raised by Mr. Mratchkov.

40. Mr. KONATE thought that it might be necessary to include a wording to the effect that the Economic and Social Council requested the Secretary-General to provide the Committee with the financial resources needed to carry out its mission. Such a request was common practice for decisions that had financial implications.

41. The CHAIRMAN replied that the Secretariat would automatically bring the financial implications to the attention of the Economic and Social Council.

42. The draft decision was adopted.

43. Mr. SIMMA asked whether a paragraph on additional information from the Dominican Republic should not be added after the paragraph on Panama, and in that connection he drew attention to paragraphs 330 and 331 of the Committee's report on its sixth session (E/1992/23), particularly to the decision drafted by the Committee and subsequently adopted by the Economic and Social Council. He could suggest a concrete wording for the paragraph.

44. The CHAIRMAN observed that it was important for the Committee not to make specific requests without then following them up if there was no response.

45. Mr. SIMMA proposed that the additional paragraph, which followed as closely as possible the text contained in paragraph 330 of the Committee's report on its sixth session, should read: "At the ... meeting the Committee, having noted that the Government of the Dominican Republic had neither responded to its request for the submission of additional information already made at its fifth session (document ...) nor to its offer made at the sixth session and subsequently endorsed by the Economic and Social Council to send one or two of its members to advise the Government in relation to efforts to promote full compliance with the Covenant in the case of the large-scale evictions referred to in the reports, decided to adopt the following decision:".

46. That text would be followed by the decision adopted in 1991, with the word "again" inserted in the first line before the word "draws". Then would follow sentences reading: "The Committee notes that the additional information referred to in its report on its sixth session, if accurate, would give rise to serious concern on the part of the Committee. The Committee thus repeats its request to the State party to suspend any actions which are not clearly in conformity with the provisions of the Covenant, and also repeats its request for the Government to provide additional information to it as a matter of urgency." In addition, the Secretary-General should be requested to inform the Government of the Dominican Republic of the Committee's decision as soon as possible. The Committee would thus be repeating the request which it had already made in 1991, using more or less the same words.

47. Mr. WIMER ZAMBRANO proposed that the word "suspend" should be replaced by the word "avoid".

48. The additional paragraph, as amended, was adopted.

E/C.12/1992/CRP.1/Add.7

Paragraphs 1-3

49. Paragraphs 1-3 were adopted.

Paragraph 4

50. Mr. KONATE asked what changes within the Secretariat were referred to in the last sentence.

51. The CHAIRMAN suggested that the sentence should be deleted.

52. Paragraph 4, as amended, was adopted.

Paragraphs 5-7

53. Mrs. JIMENEZ BUTRAGUEÑO suggested that the words "fullest possible" be deleted from the last sentence of paragraph 7.

54. Mr. KONATE asked what the purpose of paragraphs 5-7 on the day of general discussion was, since it appeared to duplicate the information given in paragraphs 5 and 6 of document E/C.12/1992/CRP.1/Add.8.

55. The CHAIRMAN explained that the justification for the inclusion of paragraphs 5-7 was that document E/C.12/1992/CRP.1/Add.8 dealt with the discussion by the Committee at its present session. In the section of the report now under consideration, the Committee had always given an indication of its future activities and of the various decisions taken relating to the next session.

56. Mr. KONATE said that he quite understood that what was involved at the present stage was a statement of the Committee's future activities. However, in addition to the rights of the elderly, there were two other aspects which the Committee had decided to study further - the draft optional protocol and the implementation of cultural rights.

57. The CHAIRMAN asked Mr. Konate whether he was suggesting that a reference to the work on the optional protocol should also be included in the present chapter.

58. Mr. KONATE said that documents E/C.12/1992/CRP.1/Add.7 and E/C.12/1992/CRP.1/Add.8 dealt with general discussions. Three subjects had been taken up in the general discussion - the rights of the elderly, the draft optional protocol, and cultural rights. Was it appropriate to give them different treatment? In paragraphs 5-7 of the document under consideration only one of those questions was considered. Why was that?

59. The CHAIRMAN replied that document E/C.12/1992/CRP.1/Add.8 entitled "Specific issues discussed by the Committee", already adopted, dealt with the general comment on the rights of the elderly and the old and with the draft optional protocol. Those matters had been specifically discussed by the Committee at its present session. In the Committee's report a separate item had always been devoted to its "day of general discussion". Document E/C.12/1992/CRP.1/Add.10 contained a report on that day of general discussion. Those two sections of the report were in turn different from the final chapter of the Committee's report dealt with in document E/C.12/1992/CRP.1/Add.7, which identified specific issues that were going to be taken up again in the future. He agreed that the allocation of space in the report was not

absolutely rational, but it reflected the practice which the Committee had consistently followed so far. He hoped that his explanation had clarified the relationship between the different documents.

60. Mr. KONATE, after noting that the rights of the elderly and the draft optional protocol were to be taken up again at a future date, inquired what was to become of the third question, i.e cultural rights.

61. The CHAIRMAN said that the items discussed in Chapter VIII were not specifically matters to which the Committee would return. The Committee had not taken any decision to revert to the draft optional protocol; it had indicated that it would revert, in due course, to the general comment on the elderly, but their inclusion in E/C.12/1992/CRP.1/Add.8 did not mean per se that they were matters to which the Committee would return while others were matters to which it would not return. The draft before the Committee should indicate the statement he, the Chairman, had made at the conclusion of that general discussion to the effect that the Committee requested Mr. Konate himself to provide it with conclusions and recommendations. However that was a separate issue to be dealt with in document E/C.12/1992/CRP.1/Add.10.

62. Mr. KONATE said that he accepted the Chairman's explanation.

63. Paragraphs 5-7, as amended, were adopted.

Paragraphs 8-12

64. Paragraphs 8-12 were adopted.

Paragraph 13

65. Mr. MARCHAN ROMERO said that in speaking of the Committee's concluding observations, the paragraph should state that they would include a "general evaluation or assessment" rather than "an introduction of a general nature". He proposed that the phrase "chapter on progress achieved" should be amended to read "paragraph on progress achieved".

66. The CHAIRMAN suggested that the word "chapter" should be amended to read "section" rather than "paragraph" so as not to be too restrictive. He suggested that the phrase "introduction of a general nature" should not be deleted, since it was the wording used by the other committees. It simply referred to a general descriptive introduction to the concluding observations.

67. Paragraph 13, as amended, was adopted.

68. Document E/C.12/1992/CRP.1/Add.7, as a whole, as amended, was adopted.

E/C.12/1992/CRP.1/Add.9

69. Document E/C.12/1992/CRP.1/Add.9 was adopted.

E/C.12/1992/CRP.1/Add.10

70. Mrs. IDER listed the following changes to the document: the first paragraph should be amended to read "The Committee at its sixth session asked Mr. Konate to prepare a paper on the right to take part in cultural life as recognized in article 15 of the Covenant on Economic, Social and Cultural Rights." Paragraph 2 should be amended to begin "Mr. Konate, introducing his paper, noted". The rest of the paragraph would remain as it stood. In paragraph 7 the third line should read "creativity of" and not "creativity if". In paragraph 12 the fourth line should be amended to read "life to elicit responses". A paragraph should be inserted before paragraph 9 to read "Members of the Committee expressed their profound appreciation to Mr. Konate for preparing an excellent legal analysis of the right to take part in cultural life." All other paragraphs should be renumbered accordingly. Lastly, a new paragraph should be inserted at the end of the document to read "The Committee decided to study these recommendations at its ninth session."

71. Mr. KOUZNETSOV asked whether the wording "should give priority" in paragraph 4 was not too strong.

72. The CHAIRMAN explained that paragraphs 2 to 6 were simply a recitation of Mr. Konate's paper and did not imply any endorsement of it. He suggested that the new paragraph to be added before paragraph 9 should be amended to read "a legal analysis" rather than "an excellent legal analysis", so as not to imply the Committee's endorsement.

73. Document E/C.12/1992/CRP.1/Add.10, as amended, was adopted.

74. The CHAIRMAN suggested that the Committee should authorize him to revise Chapter III of the report, which described its working methods, so as to reflect all the relevant decisions that had already been taken on that subject.

75. It was so decided.

76. The CHAIRMAN reminded the Committee that it had not decided whether to draw up lists of questions or some sort of overview report in relation to States parties which had not submitted reports.

77. If there was no objection he would take it that the Committee wished to proceed in the same way as with States parties which had submitted reports.

78. It was so decided.

79. The CHAIRMAN suggested that the situation of 12 countries which had not submitted reports should be scheduled for consideration at the Committee's ninth session and that the countries concerned should be informed.

80. It was so decided.

81. The report of the Committee to the Economic and Social Council on the work of its seventh session, as a whole, as amended, was adopted.

82. The CHAIRMAN, recalling that the Committee had been invited to participate in the seminar on indicators, said that he had informed the Under-Secretary-General that five Committee members would participate, but had clearly specified that one day had to be set aside for them to meet. The members of the Committee on the Working Group would be Mrs. Bonoan-Dandan, Mr. Muterahejuru, Mr. Wimer Zambrano, Mr. Kouznetsov and Mr. Simma, but since Mr. Simma would not be able to attend the seminar on indicators, Mrs. Jiménez Butragueño would be among the Committee's five participants in that seminar. With regard to the World Conference on Human Rights, Mr. Muterahejuru had agreed to represent the Committee at the fourth meeting of the Preparatory Committee. However, the date for that meeting had been changed by the General Assembly from late March/early April to two weeks in April 1993. If Mr. Muterahejuru could not attend another member would be designated. Lastly, he wished to record that Mr. Alvarez Vita had in fact informed the Committee that he would not be able to attend the current session.

CLOSURE OF THE SESSION

83. After an exchange of courtesies, the CHAIRMAN declared the session closed.

The meeting rose at 1.10 p.m.